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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,733	12/17/2001	Alan Bradley Jones	01P104	2397

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EXAMINER

NASH, LASHANYA RENEE

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/914,733

Applicant(s)

JONES ET AL.

Examiner

LaShanya R Nash

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/04/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Claims 1-13 are pending.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

Claims 1-13 are objected to because of the following minor informalities:  
improper grammar, improper punctuation, and inconsistent terminology.

Examiner suggests replacing "information on communication network", in claim 1, line 1 with "information on a communications network".

Examiner suggests replacing "comprises, " in line 2 and line 3 of claims 1-5 and claim 6 respectively with "comprises:"

Examiner suggests replacing commas with semi-colons in claims 1-6.

Examiner suggests inserting a comma after claim number in line 1 of claims 7-13.

Examiner suggests replacing "one or more of" in line 2 of claims 8 and 11 with "one or more of :".

Examiner suggests replacing commas with semi-colons in claims 8 and 11.

Examiner suggests replacing "invention" in line 1 of claims 7-13 with "apparatus", for consistent terminology.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 3,4, and 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed computer program is considered software per se. Although a program has functionality as employed as part of a computing system, when not adequately embodied, the computer program lacks tangibility. As a result, the aforementioned computer executable program is non-statutory.

In order to expedite a complete examination of the application the claims rejected under 35 U.S.C. 101 (non-statutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1,3, and 5-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Lang et al. (US Patent 5,983,214 and 5,867,799 [incorporated by reference]).**

In reference to claim 1, Lang discloses an apparatus for classifying (i.e. rating) network information, in order to efficiently provide relevant information to a user, (abstract, column 2, lines 36-53; and Figure 1). Lang explicitly discloses:

- An apparatus for classifying (i.e. rating) information on communication network, (column 2, lines 36-53; column 3, lines 10-24; and Figure 1), the apparatus comprises:
- A means for, (Figure 1-item 17), obtaining one or more transmission characteristics of information on a path of the communication network, and analyzing means for (Figure 1-item 21) predicting a classification of the information based in the one of more transmission characteristics, (column 6, line 31 to column 8, line 27 and Figure 1).

In reference to claim 3, Lang discloses computer software for classifying (i.e. rating) network information, in order to efficiently provide relevant information to a user, (abstract, column 2, lines 36-53; and Lang (5,867,799) abstract and column 6, line 65 to column 7, line 13). Lang explicitly discloses:

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- Software for classifying (i.e. rating) information on communication network, (column 2, lines 36-53; column 3, lines 10-24; Figure 1, Lang (5,867,799) abstract and column 6, line 65 to column 7, line 13), the software comprises:
- A means for, (Figure 1-item 17), obtaining one or more transmission characteristics of information on a path of the communication network, and analyzing means for (Figure 1-item 21) predicting a classification of the information based in the one of more transmission characteristics, (column 6, line 31 to column 8, line 27 and Figure 1).

In reference to claim 5, Lang discloses an apparatus for classifying user profiles, in order to efficiently provide relevant information to users via a network, (abstract, column 2, lines 36-53; and Figure 1). Lang explicitly discloses:

- An apparatus for classifying user profiles of users accessing information or content servers on a communication network, (column 2, lines 36-53; column 3, lines 10-24; column 3, lines 43-65; and Figure 1), the apparatus comprises:
- Means for, (Figure 1-item 17), obtaining one or more transmission characteristics of information or information provided by any one of the content servers on a path of the communication network, and analyzing means for (Figure 1-item 21) predicting a classification of the information or the one content server based in the one of more transmission characteristics, and means for (Figure 1-item 28) classifying a user profile in accordance with the predicted classification, (column 6, line 31 to column 8, line 27 and Figure 1).

In reference to claim 6, Lang discloses computer software for classifying user profiles, in order to efficiently provide relevant information to users via a network, (abstract, column 2, lines 36-53; column 3, lines 43-65; and Lang (5,867,799) abstract and column 6, line 65 to column 7, line 13). Lang explicitly discloses:

- Software for classifying user profiles of users accessing information or content servers on a communication network, (column 2, lines 36-53; column 3, lines 10-24; column 3, lines 43-65; Figure 1; and Lang (5,867,799) abstract and column 6, line 65 to column 7, line 13), the software comprises:
- A means for, (Figure 1-item 17), obtaining one or more transmission characteristics of information or information provided by any one of the content servers on a path of the communication network, and analyzing means for (Figure 1-item 21) predicting a classification of the information or the one content server based in the one of more transmission characteristics, and means for (Figure 1-item 28) classifying a user profile in accordance with the predicted classification, (column 6, line 31 to column 8, line 27 and Figure 1).

In reference to claim 7, Lang shows the apparatus further comprising a means for (Figure 1-item 31) storing the one or more transmission characteristics, (column 8, lines 22-28).

In reference to claim 8, Lang shows the apparatus wherein the one or more transmission characteristics include any one or more of: content type of transmission activities, (column 3, line 10 to column 4, line 53).

In reference to claim 9, Lang shows the apparatus wherein the one or more transmission characteristics are obtained from network packets or fragments thereof, (column 3, lines 10-42).

In reference to claim 10, Lang shows the apparatus analysis means includes a profiling means (Figure 1-item 28) providing profiles of interactions based in the one or more transmission characteristics, (column 6, line 50 to column 7, line 27).

In reference to claim 12, Lang shows the apparatus further comprises a knowledge base of predetermined profiles (i.e. community profiles) and the analysis means is adapted to predict a classification based in a comparison between the profile of the information to be classified and predetermined profiles, (column 3, lines 43-65; column 6, line 51 to column 7, line 17; and column 2, lines 18-36).

In reference to claim 13, Lang shows the apparatus further comprises a means for (Figure 1-item 30) updating the knowledge base so that the classification prediction can be enhanced following classifications, (column 7, lines 39-64 and column 8, lines 11-21).



### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable**

**Lang et al. (US Patent 5,983,214 and 5,867,799 [incorporated by reference]), in view in view of Baker et al. (US Patent 5,678,041).**

In reference to claim 2, Lang explicitly discloses substantial features of the claimed invention. Lang specifically discloses:

- An apparatus for classifying (i.e. rating), (column 2, lines 36-53; column 3, lines 10-24; and Figure 1), the apparatus comprises:
- A means for, (Figure 1-item 17), obtaining one or more transmission characteristics of information on a path of the communication network, and analyzing means for (Figure 1-item 21) predicting a classification of the information based in the one of more transmission characteristics, (column 6, line 31 to column 8, line 27 and Figure 1).

However, the reference fails to disclose classifying content servers that are accessible on a communications network. Nonetheless, classifying content servers that provide information via networks was well known in the art at the time of the invention, as further evidenced by Baker. Therefore, this limitation would have been an obvious modification

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to the apparatus as disclosed by Lang, to one of ordinary skill in the art at the time of the invention.

In an analogous art, Baker discloses classifying content servers (i.e. Uniform Resource Locators) in order to regulate network information that is subsequently accessed by users, (column 3, lines 6-33 and column 5, line 65 to column 6, line 23). Given this feature a person of ordinary skill in the art at the time of the invention would have readily recognized the advantages of modifying the apparatus as disclosed by Lang, in order selectively control network (i.e. Internet) access without impairing the users ability to communicate with the servers via the network, (column 2, lines 63 to column 3, line 5).

In reference to claim 4, Lang explicitly discloses substantial features of the claimed invention. Lang specifically discloses:

- Software for classifying, (column 2, lines 36-53; column 3, lines 10-24; Figure 1, Lang (5,867,799) abstract and column 6, line 65 to column 7, line 13), the software comprises:
- A means for, (Figure 1-item 17), obtaining one or more transmission characteristics of information on a path of the communication network, and analyzing means for (Figure 1-item 21) predicting a classification of the information based in the one of more transmission characteristics, (column 6, line 31 to column 8, line 27 and Figure 1).

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However, the reference fails to disclose classifying content servers that are accessible on a communications network. Nonetheless, classifying content servers that provide information via networks was well known in the art at the time of the invention, as further evidenced by Baker. Therefore, this limitation would have been an obvious modification to the computer software as disclosed by Lang, to one of ordinary skill in the art at the time of the invention.

In an analogous art, Baker discloses classifying content servers (i.e. Uniform Resource Locators) in order to regulate network information that is subsequently accessed by users, (column 3, lines 6-33 and column 5, line 65 to column 6, line 23). Given this feature a person of ordinary skill in the art at the time of the invention would have readily recognized the advantages of modifying the aforementioned computer software as disclosed by Lang, in order selectively control network (i.e. Internet) access without impairing the users ability to communicate with the servers via the network, (column 2, lines 63 to column 3, line 5).

### ***Conclusion***

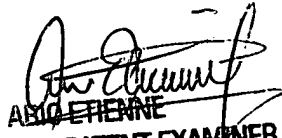
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShanya R Nash whose telephone number is (571)272-3957. The examiner can normally be reached on 9am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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January 21, 2005

  
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